

CEASE AND DESIST ORDER R5-2012-XXXX
REQUIRING

TO CEASE AND DESIST FROM

DISCHARGING WASTE CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board or Board), finds that:

- ## TESTATE ORDER

- b. approximately 160 acres of land in the southeast quarter of section 25, Township 31 South, Range 28 East, MDB&M; and
- c. approximately 50 acres of land to the west of the WWTF.

The lease agreement requires Community Recycling to accept and dispose of all of the wastewater and sludge produced by the Discharger's WWTF.

7. On 30 March 2009, the Discharger's engineer submitted a water balance that indicated that the Discharger had enough disposal capacity to dispose of 3.25 mgd of effluent. The water balance assumed that the Discharger controlled 310 acres of agricultural land for effluent recycling, and that 1.2 mgd would be continuously discharged to the composting operation.
8. In February 2012, the Discharger's engineer reported that the Discharger only has 130 acres to which it can apply its effluent for recycling, not the 310 acres reported in 2009. Approximately 160 acres of land owned by the Discharger that comprises the southeast 1/4 of section 25, Township 31 South, Range 28 East, MDB&M has not been brought into agricultural production, reportedly due to site slope and soil pH/salinity issues.
9. Various amendments to the lease agreement between the Discharger and Community Recycling (described in Finding No. 6) were made in March 1996, June 1996, and June 2000. The lease extends to 30 June 2023, but may be terminated on four years notice by Community Recycling.
10. On 15 November 2011, Kern County purported to revoke the Conditional Use Permit (CUP) issued to Community Recycling. Without the CUP, Community Recycling cannot conduct recycling operations, and therefore cannot legally dispose of the Discharger's wastewater. Based on reported flow rates (about 2.3 mgd), without Community Recycling or another entity taking the portion of the Discharger's effluent that is now disposed to the composting operation, the WWTF has insufficient disposal capacity.
11. The Central Valley Water Board has not been provided adequate assurances that the Discharger would be able to provide adequate disposal capacity if the composting facility ceases operations. The Discharger owns the land where wastewater is applied, and is responsible for ensuring that there is sufficient disposal capacity for the wastewater produced by the Discharger's WWTF.
12. WDRs Order No. 98-043, Discharge Specification B.7, states in part:

Effluent, from the outlet of the treatment ponds(s) prior to disposal (for irrigation or composting), shall not exceed the following limits:

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<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD ₅ ¹	mg/l	40	40
Total Suspended Solids	mg/l	40	40

¹ Five day, 20° Celsius biochemical oxygen demand

13. WDRs Order R5-2012-XXXX, Effluent Limitations B.2, states in part:

Effluent shall not exceed the following limitations:

<u>Constituent</u>	<u>Units</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
BOD ₅ ¹	mg/L	40	80
TSS ²	mg/L	40	80

¹ Five-day biochemical oxygen demand

² Total suspended solids

14. Self-monitoring reports for December 2010 – September 2011 report monthly average daily flows of 2.3 to 2.5 mgd. More recently, self-monitoring reports submitted for November and December 2011 and January 2012 report monthly average daily flows of 1.3 to 1.4 mgd. Even though the WWTF is operating at far below the reported design capacity, the same self-monitoring reports indicate the WWTF violated monthly average BOD₅ limit of 40 mg/L in WDRs Order 98-043, with BOD₅ of 41 mg/L in November 2011, 95 mg/L in December 2011, and 42 mg/L in January 2012.

15. The information in Finding 14 also indicates that the WWTF threatens to violate the effluent BOD₅ and TSS limits in WDRs Order R5-2012-XXXX.

16. WDRs Order No. 98-043, Discharge Prohibition A.1 states:

Discharge of waste to surface waters or surface water drainage courses is prohibited.

17. WDRs Order No. 98-043, Discharge Specification B.9, states in part:

The Discharger shall have sufficient wastewater storage capacity in conjunction with recycling of the wastewater, to accommodate wastewater flow and design seasonal precipitation and ancillary inflow and infiltration. Design seasonal precipitation shall be based on a total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall capacity.

18. WDRs Order No. 98-043, Recycled Water Specification C.2, states:

Recycled water shall remain within the designated disposal areas (described in Finding No. 9) at all times.

Kern County Public Utilities District

19. On __ June 2012, the Central Valley Water Board adopted WDRs Order R5-2012-XXXX. WDRs Order R5-2012-XXXX, Prohibition A.1 states:

Discharge of waste to surface waters or surface water drainage courses is prohibited.

20. WDRs Order R5-2012-XXXX, Prohibition A.4 states:

Discharge of wastewater in a manner or location other than that described herein is prohibited.

21. WDRs Order R5-2012-XXXX, Discharge Specification C.4 states:

The discharge shall remain within the permitted waste treatment/containment structures and land application areas at all times.

22. WDRs Order R5-2012-XXXX, Discharge Specification C.9 states:

The treatment, storage, and disposal ponds or structures shall have sufficient capacity to accommodate allowable wastewater flow, design seasonal precipitation, and ancillary inflow and infiltration during the winter while ensuring continuous compliance with all requirements of this Order. Design seasonal precipitation shall be based on total annual precipitation using a return period of 100 years, distributed monthly in accordance with historical rainfall patterns.

23. The information in Findings 7 through 11 indicates that the Discharger does not have adequate short-term or long-term control over the current areas to which its effluent is applied for disposal and, therefore, its discharges have threatened and continue to threaten to violate the requirements listed in Findings 12 through 22.
24. Generally, from 2000 to through November 2011, the Discharger did not comply with Revised Monitoring and Reporting Program 98-043. However, in December 2011, the Discharger contracted with a wastewater treatment operations firm to help run the WWTF and to compile its self-monitoring reports. The firm also calibrated the influent flow meter on January 2012. Looking forward, Item 2 of CDO R5-00-098 (which requires the Discharger to monitor and report in full compliance with Revised Monitoring and Reporting Program 98-043, including the requirement for proper flow meter calibration) appears to be resolved. Past monitoring and reporting violations of WDRs Order 98-043, Revised Monitoring and Reporting Program 98-043, and CDO R5-00-098 remain unresolved.
25. Item 3 of CDO R5-00-098 requires the Discharger to remove sludge from its two aerated ponds. The Discharger completed sludge removal from aerated pond No. 1 in June 2009. The Discharger is currently in the process of bidding for a project to remove sludge from aerated pond No. 2. WDRs Order R5-2012-XXXX contains a time schedule that requires the Discharger to finish the project.

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26. Item 4 of the CDO R5-00-098 requires the Discharger to investigate the causes of low influent BOD₅ concentrations and implement measures to limit discharges of pollutant-free wastewater (such as infiltration and inflow) into the collection system. The Discharger investigated the causes and submitted a technical report in December 2002 proposing measures to reduce the discharge of pollutant-free wastewater into the WWTF collection system. The Discharger has not implemented all the measures it identified, and influent BOD₅ averages 291 mg/L and is often as low as 47 mg/L. WDRs Order R5-2012-XXXX contains a time schedule that requires the Discharger to provide an update on the matter and a time schedule to proceed with practical measures to reduce the discharge of pollutant-free wastewater into the WWTF collection system.
27. Item 6 of CDO R5-00-098 requires the Discharger to submit a proposed Industrial Pretreatment Program. On 22 September 2008, the Discharger adopted Sewer Use Ordinance No. 108, *An Ordinance of the Lamont Public Utilities District Amending Ordinance 50 and Establishing a Sewer Use Ordinance*, which authorizes it to regulate industrial discharges into the WWTF collection system. On 18 June 2009, the Discharger submitted a preliminary draft of an Industrial Pretreatment Program. The Ordinance and Industrial Pretreatment Program provide the tools necessary for the Discharger to regulate discharges to its collection system.

28. Water Code section 13301, states, in part, that:

When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action. In the event of an existing or threatened violation of waste discharge requirements in the operation of a community sewer system, cease and desist orders may restrict or prohibit the volume, type, or concentration of waste that might be added to that system by dischargers who did not discharge into the system prior to the issuance of the cease and desist order. Cease and desist orders may be issued directly by a board, after notice and hearing.

29. Water Code section 13267(b), states, in part, that:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide

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the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

The technical reports required by this Order are necessary to assure compliance with both this Order and Waste Discharge Requirements Order R5-2012-XXXX, and to assure protection of the public health and safety. The Discharger owns and operates the facility that discharges the waste subject to these Orders.

30. The issuance of this Order is an enforcement action by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act, pursuant to California Code of Regulations, title 14, section 15321(a)(2).
31. On __ June 2012, in Rancho Cordova, California, after notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order.

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13301 and 13267, Lamont Public Utilities District, its agents, successors, and assigns shall implement the following measures necessary to ensure long-term compliance with WDRs Order R5-2012-XXXX, or any superseding permits or orders issued by the Central Valley Water Board. This Cease and Desist Order rescinds and replaces Cease and Desist Order R5-00-0098.

1. The Discharger shall cease and desist from discharging wastes in violation of Waste Discharge Requirements Order R5-2012-XXXX and Monitoring and Reporting Program R5-2012-XXXX. No term or condition of Order R5-2012-XXXX and MRP R5-2012-XXXX is superseded or stayed by this Cease and Desist Order.
2. The Discharger shall complete modifications to the WWTF or implement operational changes to ensure that the WWTF will reliably meet effluent limits in Effluent Limitation B.2 for BOD₅ and TSS up to the design treatment capacity of 3.25 mgd. In performing this task, the Discharger shall comply with the following time schedule:

<u>Task</u>		<u>Compliance Date</u>	<u>Report Date</u>
a.	Submit a technical report describing measures the Discharger has implemented or proposes to implement to ensure adequate treatment capacity to ensure compliance with Effluent Limitation B.2.		7 December 2012
b.	Begin implementing proposed measures.	7 January 2013	7 February 2013
c.	Fully comply with effluent limits in Effluent Limitation B.2.	7 June 2013	8 July 2013

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3. The Discharger shall secure adequate effluent disposal capacity for 3.25 mgd. Though the Discharger is not prohibited from discharging to the composting operation, the Discharger cannot continue to rely on the continued existence of the composting operation for the disposal of wastewater generated at the WWTF. Reliance on the composting operation jeopardizes the investments of those that discharge into the Discharger's collection system, as houses could be rendered uninhabitable if the composting facility ceases operations and the Discharger has failed to secure alternative disposal capacity. In securing adequate effluent disposal capacity, the Discharger shall comply with the following time schedule:

	<u>Task</u>	<u>Compliance Date</u>	<u>Report Date</u>
a.	Submit a technical report describing measures the Discharger has implemented or proposes to implement to ensure adequate Use Area to ensure compliance with Discharge Specification C.4, C.9 and Recycling Specifications D.25 through D.26. The report shall include, at a minimum, an implementation schedule, and water and nitrogen balances for the proposed Use Area expansion project.		7 December 2012
b.	Acquire property (by purchase or long-term lease) for additional Use Area.	9 December 2013	7 January 2014
c.	Complete CEQA documentation for additional Use Area	7 February 2014	7 March 2014
d.	Submit a Report of Water Reclamation to the Board and an updated Title 22 Engineering Report to the Department of Public Health for additional Use Area.	7 February 2014	7 March 2014
e.	Fully comply with Discharge Specification C.4, C.9 and Recycling Specifications D.25 through D.26.	9 June 2014	9 June 2014

LAWRENCE H. HARRIS

All technical reports and work plans required herein that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1. To demonstrate compliance with sections 415 and 3065 of Title 16 of the California Code of Regulations, all technical reports must contain a statement of the qualifications and responsible registered professional(s). As required by these laws, completed technical reports and work plans must bear the signature(s) and seal(s) of the registered professional(s) in a manner such that all work can be clearly attributed to the professional responsible for the work. The technical reports are subject to the Executive Officer approval.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for Administrative Civil Liability.

Failure to comply with this Order or with the WDRs may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350 and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality/

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on _____.

PAMELA C. CREEDON, Executive Officer

DMS/WDH: 3/23/2012

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